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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,961

01/29/2004

Philip E. Rollhaus

16489-51304

5348

24728 7590 02/22/2007
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EXAMINER

DAVIS, DAVID DONALD

ART UNIT

PAPER NUMBER

2627

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/767,961

Applicant(s)

ROLLHAUS ET AL.

Examiner

David D. Davis

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-34 and 37-59 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 7-34 and 37-59 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Establishing Right of Assignee to Take Action

1. The reissue oath/declaration filed with this application is defective (see 37 CFR 3.73(b)) because of the following: Assignee failed to indicate the extent of ownership interest by either percentage or entire right.

Claim Rejections - 35 USC § 251

2. Claims 2-34 and 37-61 are rejected under 35 U.S.C. 251 since error "without any deceptive intention" has not been established. Applicant has claimed subject matter in the reissue application that was canceled in response to a restriction requirement during prosecution of the original patents, 6,011,772. *In re Orita*, 193 USPQ 145. Reissue may not be utilized to reclaim subject matter which was nonelected in the original applications. 35 U.S.C. § 251 cannot be used to circumvent other statutory requirements, e.g., the copendency requirement of 35 USC § 120 for filling divisional applications on nonelected subject matter. This also applies to broadened variations of nonelected subject matter. (See MPEP 1402 and 1450). Specifically, Species IX, figure 12, and Sub-Species III, figure 3, was elected in paper #7, received November 14, 2000, which is directed to rendering the disk unreadable due to a source of optical radiation. Claims 2-17 belong to Sub-Species VI, figure 17, for example, which is directed to rendering the disk unreadable due to ambient air or moisture. Claims 18-34, and 37-59 belong, for example, to Species VI, VII and VII, which is directed to rendering the disk unreadable due to ambient air or moisture or solvent.

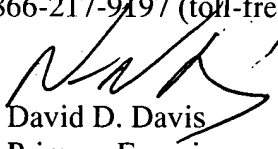
Allowable Subject Matter

3. Claim 1 allowed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is 571-272-7572. The examiner can normally be reached on Monday thru Friday between 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David D. Davis
Primary Examiner
Art Unit 2627

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